

Exhibit B-1 to Notice of Removal

At IAS Part ____ of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 60 Centre Street, New York, New York, on the ____ day of February, 2013.

P R E S E N T : _____,
Justice

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VISCOGLIOSI BROTHERS, LLC,

Plaintiff,

- against -

OLYMPUS CORPORATION, OLYMPUS BIOTECH
CORPORATION and JOHN DOES 1-25,

Defendants.
-----X

:
: Index No. 653587/2012
:
:

ORDER

Plaintiff Viscoglioni Brothers, LLC (“Plaintiff”), having duly made an application to this Court for an Order pursuant to C.P.L.R. § 306-b and § 2004 for an extension of time to serve defendants Olympus Corporation and Olympus Biotech Corporation (together, “Defendants”) with the Summons with Notice in the above-captioned action, and Plaintiff’s application having been duly submitted to the Ex Parte Clerk, and

Upon the reading and filing of the Affirmation of Paul H. Schafhauser, attorney for Plaintiff, dated February 6, 2013, and the exhibits annexed thereto, showing good cause for an extension of time pursuant to C.P.L.R. § 306-b and § 2004 to serve Defendants with the Summons with Notice in the above-captioned action, and after due deliberation having been had thereon;

NOW, on the application of Herrick, Feinstein LLP, attorneys for Plaintiff, it is hereby
ORDERED, that Plaintiff's time to serve the Summons with Notice on Defendants shall
be and hereby is extended 120 days from February 11, 2013 to June 11, 2013.

ENTER:

J.S.C.

Exhibit B-2 to Notice of Removal

4. Plaintiff seeks the extension because Plaintiff is exploring various alternatives regarding this matter and, to avoid needlessly burdening Defendants or the Court in the

meantime, wishes to extend the time to serve the Summons with Notice. Moreover, it should be noted that Olympus Corporation is a Japanese corporation and service is usually effectuated under the complex international service provisions and regulations of the Hague Convention.

5. Counsel for Defendants has consented to the 120-day extension sought by Plaintiff.

6. No prior request for the relief sought herein has been made to this Court or to any other court.

Dated: New York, New York
February 6, 2013

/s/ Paul H. Schafhauser
PAUL H. SCHAFHAUSER

Exhibit B-3 to Notice of Removal

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VISCOGLIOSI BROTHERS, LLC,

Plaintiff,

- against -

OLYMPUS CORPORATION, OLYMPUS BIOTECH
CORPORATION and JOHN DOES 1-25,

Defendants.
-----X

:
: Index No.

:
: Date Index No. Purchased:

**SUMMONS WITH
NOTICE**

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to appear in this action by serving a notice of appearance on the plaintiff at the address set forth below, and to do so within twenty (20) days after the service of this Summons (not counting the day of service itself), or within thirty (30) days after service is complete if the summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer or appear, a judgment will be entered against you by default for the relief demanded below.

Dated: New York, New York
October 12, 2012

HERRICK, FEINSTEIN LLP

By: 

Arthur Jakob, Esq.

Paul H. Schafhauser, Esq.

Attorneys for Plaintiff

Two Park Avenue

New York, New York 10016

(212) 592-1400

To: Olympus Corporation
Shinjuku Monolith
3-1 Nishi-Shinjuku 2-Chome
Shinjuku-ku, Tokyo 163-0914
Japan

Olympus Biotech Corporation
35 South Street
Hopkinton, Massachusetts 01748
USA

NOTICE:

The nature of this action is (1) breach of contract; (2) breach of the implied covenant of good faith and fair dealing; (3) fraudulent inducement; (4) fraud, misrepresentation, and fraudulent omission; (5) unlawful conspiracy to defraud; (6) negligent misrepresentation; (7) tortious interference; (8) promissory estoppel and detrimental reliance; (9) unjust enrichment; (10) specific performance; (11) libel, slander, and/or defamation *per se*; (12) libel, slander, and/or defamation; (13) preliminary and permanent injunctive relief; (14) Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961, et seq.; and (15) fees, costs, and expenses.

The relief sought includes compensatory, punitive, and treble damages, specific performance and enforcement of defendants' commitments and agreements to plaintiff, injunctive relief, pre- and post-judgment interest, attorneys' fees, costs of suit, and such other and further relief as this Court may deem just and equitable.

Should defendants fail to appear herein, judgment in plaintiff's favor will be entered by default for compensatory, punitive and treble damages, presently anticipated to total the sum of \$100,000,000.00, with interest from the date of this action and the costs of this action.

VENUE:

Plaintiff designates New York County as the place of trial in this matter. The basis of this designation is plaintiff's residence in New York County.

Exhibit B-4 to Notice of Removal

REQUEST FOR JUDICIAL INTERVENTION

UCS-840 (3/2012)

Supreme COURT, COUNTY OF New York

Index No: 653587/12 Date Index Issued: 10/12/2012

CAPTION: Enter the complete case caption. Do not use et al or et ano. If more space is required, attach a caption rider sheet.

VISCOGLIOSI BROTHERS, LLC,

Plaintiff(s)/Petitioner(s)

-against-

OLYMPUS CORPORATION, OLYMPUS BIOTECH CORPORATION and JOHN DOES 1-25,

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING:

Check ONE box only and specify where indicated.

MATRIMONIAL

☐ Contested

NOTE: For all Matrimonial actions where the parties have children under the age of 18, complete and attach the MATRIMONIAL RJJ Addendum.

TORTS

☐ Asbestos☐ Breast Implant☐ Environmental: (specify)☐ Medical, Dental, or Podiatric Malpractice☐ Motor Vehicle☐ Products Liability: (specify)☐ Other Negligence: (specify)☐ Other Professional Malpractice: (specify)☐ Other Tort: (specify)

OTHER MATTERS

☐ Certificate of Incorporation/Dissolution [see NOTE under Commercial]☐ Emergency Medical Treatment☐ Habeas Corpus☐ Local Court Appeal☐ Mechanic's Lien☐ Name Change☐ Pistol Permit Revocation Hearing☐ Sale or Finance of Religious/Not-for-Profit Property☐ Other: (specify)

COMMERCIAL

☐ Business Entity (including corporations, partnerships, LLCs, etc.)☒ Contract☐ Insurance (where insurer is a party, except arbitration)☐ UCC (including sales, negotiable instruments)☐ Other Commercial: (specify)

NOTE: For Commercial Division assignment requests [22 NYCRR § 202.70(d)], complete and attach the COMMERCIAL DIV RJJ Addendum.

REAL PROPERTY: How many properties does the application include? _____

☐ Condemnation☐ Mortgage Foreclosure (specify): ☐ Residential ☐ Commercial

Property Address: _____ Street Address City State Zip

NOTE: For Mortgage Foreclosure actions involving a one- to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the FORECLOSURE RJJ Addendum.

☐ Tax Certiorari - Section: _____ Block: _____ Lot: _____☐ Tax Foreclosure☐ Other Real Property: (specify)

SPECIAL PROCEEDINGS

☐ CPLR Article 75 (Arbitration) [see NOTE under Commercial]☐ CPLR Article 78 (Body or Officer)☐ Election Law☐ MHL Article 9.60 (Kendra's Law)☐ MHL Article 10 (Sex Offender Confinement-Initial)☐ MHL Article 10 (Sex Offender Confinement-Review)☐ MHL Article 81 (Guardianship)☐ Other Mental Hygiene: (specify)☐ Other Special Proceeding: (specify)

STATUS OF ACTION OR PROCEEDING:

Answer YES or NO for EVERY question AND enter additional information where indicated.

Has a summons and complaint or summons w/notice been filed?

YES NO

☒☐

If yes, date filed: 10/12/2012

Has a summons and complaint or summons w/notice been served?

☐☒

If yes, date served: _____

Is this action/proceeding being filed post-judgment?

☐☒

If yes, judgment date: _____

NATURE OF JUDICIAL INTERVENTION:

Check ONE box only AND enter additional information where indicated.

- ☐ Infant's Compromise
☐ Note of Issue and/or Certificate of Readiness
☐ Notice of Medical, Dental, or Podiatric Malpractice Date Issue Joined: _____
☐ Notice of Motion Relief Sought: _____ Return Date: _____
☐ Notice of Petition Relief Sought: _____ Return Date: _____
☐ Order to Show Cause Relief Sought: _____ Return Date: _____
☒ Other Ex Parte Application Relief Sought: Extend - Time
☐ Poor Person Application
☐ Request for Preliminary Conference
☐ Residential Mortgage Foreclosure Settlement Conference
☐ Writ of Habeas Corpus
☐ Other (specify): _____

RELATED CASES:

List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases. If additional space is required, complete and attach the **RJI Addendum**. If none, leave blank.

Case Title	Index/Case No.	Court	Judge (if assigned)	Relationship to Instant Case

PARTIES:

For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in space provided. If additional space is required, complete and attach the **RJI Addendum**.

Un-Rep	Parties:	Attorneys and/or Unrepresented Litigants:	Issue Joined (Y/N):	Insurance Carrier(s):
<input type="checkbox"/>	VISCOGLIOSI BROTHERS, LLC Last Name First Name Primary Role: Plaintiff Secondary Role (if any):	Schafhauser Paul Last Name First Name Herrick, Feinstein LLP Firm Name 2 PARK AVENUE NEW YORK New York 10016 Street Address City State Zip +1 (212) 592-1400 +1 (212) 592-1500 pschafhauser@herrick.com Phone Fax e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	
<input checked="" type="checkbox"/>	OLYMPUS CORPORATION Last Name First Name Primary Role: Defendant Secondary Role (if any):	Last Name First Name Firm Name 3-1 NISHI-SHINJUKU 2-CHOME SHINJUKU-KU, TOKYO Street Address City State Zip Phone Fax e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	
<input checked="" type="checkbox"/>	OLYMPUS BIOTECH CORPORATION Last Name First Name Primary Role: Defendant Secondary Role (if any):	Last Name First Name Firm Name 35 SOUTH STREET HOPKINTON Massachusetts 01748 Street Address City State Zip Phone Fax e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	
<input checked="" type="checkbox"/>	JOHN DOES 1-25 Last Name First Name Primary Role: Secondary Role (if any):	Last Name First Name Firm Name Street Address City State Zip Phone Fax e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: 02/06/2013

2592590

ATTORNEY REGISTRATION NUMBER

SIGNATURE

Paul H. Schafhauser

PRINT OR TYPE NAME

Print Form

Exhibit B-5 to Notice of Removal

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF New YorkIndex No. 653587/12

VISCOGLIOSI BROTHERS, LLC

RJI No. (if any) _____

-against-

Plaintiff(s)/Petitioner(s)

OLYMPUS CORPORATION, et al.

Defendant(s)/Respondent(s)

COMMERCIAL DIVISION**Request for Judicial Intervention Addendum****COMPLETE WHERE APPLICABLE** [add additional pages if needed]:**Plaintiff/Petitioner's cause(s) of action** [check all that apply]:

- ☒ Breach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g. unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings (e.g. sales of assets or securities; corporate restructuring; partnership, shareholder, joint venture, and other business agreements; trade secrets; restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices)
- ☐ Transactions governed by the Uniform Commercial Code (exclusive of those concerning individual cooperative or condominium units)
- ☐ Transactions involving commercial real property, including Yellowstone injunctions and excluding actions for the payment of rent only
- ☐ Shareholder derivative actions — without consideration of the monetary threshold
- ☐ Commercial class actions — without consideration of the monetary threshold
- ☐ Business transactions involving or arising out of dealings with commercial banks and other financial institutions
- ☐ Internal affairs of business organizations
- ☐ Malpractice by accountants or actuaries, and legal malpractice arising out of representation in commercial matters
- ☐ Environmental insurance coverage
- ☐ Commercial insurance coverage (e.g. directors and officers, errors and omissions, and business interruption coverage)
- ☐ Dissolution of corporations, partnerships, limited liability companies, limited liability partnerships and joint ventures — without consideration of the monetary threshold
- ☐ Applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief pursuant to CPLR Article 75 involving any of the foregoing enumerated commercial issues — without consideration of the monetary threshold

Plaintiff/Petitioner's claim for compensatory damages [exclusive of punitive damages, interest, costs and counsel fees claimed]:\$ 100,000,000**Plaintiff/Petitioner's claim for equitable or declaratory relief** [brief description]:

Breach of contract, breach of implied covenant of good faith and fair dealing, fraudulent inducement, fraud, misrepresentation, and fraudulent omission, unlawful conspiracy to defraud, negligent misrepresentation, tortious interference, promissory estoppel and detrimental reliance, unjust enrichment, specific performance, libel, slander, and/or defamation, injunctive relief, and RICO claims

Defendant/Respondent's counterclaim(s) [brief description, including claim for monetary relief]:

I REQUEST THAT THIS CASE BE ASSIGNED TO THE COMMERCIAL DIVISION. I CERTIFY THAT THE CASE MEETS THE JURISDICTIONAL REQUIREMENTS OF THE COMMERCIAL DIVISION SET FORTH IN 22 NYCRR § 202.70(a), (b) AND (c).

Dated: 02/06/2013

SIGNATURE

Paul H. Schafhauser
PRINT OR TYPE NAME

Exhibit B-6 to Notice of Removal

SUPREME COURT OF THE STATE OF NEW YORK

NEW YORK COUNTY

PRESENT: JEFFREY K. OING
J.S.C.

PART 48

Justice

Index Number : 653587/2012
VISCOGLIOSI BROTHERS, LLC
vs.
OLYMUS CORPORATION
SEQUENCE NUMBER : 001
EXTEND TIME

INDEX NO. _____

MOTION DATE _____

MOTION SEQ. NO. _____

The following papers, numbered 1 to _____, were read on this motion to/for _____

Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____ No(s). _____

Answering Affidavits — Exhibits _____ No(s). _____

Replying Affidavits _____ No(s). _____

Upon the foregoing papers, it is ordered that this motion is

Order signed herewith.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 2/8/13

JEFFREY K. OING, J.S.C.
J.S.C.

1. CHECK ONE: ☐ CASE DISPOSED ☒ NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: ☐ GRANTED ☐ DENIED ☐ GRANTED IN PART ☒ OTHER
3. CHECK IF APPROPRIATE: ☐ SETTLE ORDER ☐ SUBMIT ORDER
- ☐ DO NOT POST ☐ FIDUCIARY APPOINTMENT ☐ REFERENCE

At IAS Part 48 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 60 Centre Street, New York, New York, on the 6th day of February, 2013.

JEFFREY K. OING
J.S.C.

P R E S E N T : _____
Justice

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VISCOGLIOSI BROTHERS, LLC,

Plaintiff,

- against -

OLYMPUS CORPORATION, OLYMPUS BIOTECH
CORPORATION and JOHN DOES 1-25,

Defendants.
-----X

Index No. 653587/2012

ORDER

MOTION SEQUENCE # 001

Plaintiff Viscogliosi Brothers, LLC ("Plaintiff"), having duly made an application to this Court for an Order pursuant to C.P.L.R. § 306-b and § 2004 for an extension of time to serve defendants Olympus Corporation and Olympus Biotech Corporation (together, "Defendants") with the Summons with Notice in the above-captioned action, and Plaintiff's application having been duly submitted to the ~~Ex Parte Clerk~~ ^{Court}, and

Upon the reading and filing of the Affirmation of Paul H. Schafhauser, attorney for Plaintiff, dated February 6, 2013, and the exhibits annexed thereto, showing good cause for an extension of time pursuant to C.P.L.R. § 306-b and § 2004 to serve Defendants with the Summons with Notice in the above-captioned action, and after due deliberation having been had thereon;

NOW, on the application of Herrick, Feinstein LLP, attorneys for Plaintiff, it is hereby
ORDERED, that Plaintiff's time to serve the Summons with Notice on Defendants shall
be and hereby is extended 120 days from February 11, 2013 to June 11, 2013.

ENTER:



JEFFREY K. OING
J.S.C.

J.S.C.

Exhibit B-7 to Notice of Removal

ORDER

NOW, on the application of Herrick, Feinstein LLP, attorneys for Plaintiff, it is hereby

ORDERED, that Plaintiff's time to serve the Summons with Notice on Defendants shall be and hereby is extended for a period of 120 days (i.e., from June 11, 2013 to October 9, 2013).

ENTER:

J.S.C.

Exhibit B-8 to Notice of Removal

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VISCOGLIOSI BROTHERS, LLC,

Plaintiff,

- against -

OLYMPUS CORPORATION, OLYMPUS BIOTECH
CORPORATION and JOHN DOES 1-25,

Defendants.
-----X

:
: Index No. 653587/2012
:

:
: **AFFIRMATION OF**
: **PAUL H. SCHAFHAUSER**
:

PAUL H. SCHAFHAUSER, an attorney admitted to practice before the Courts of the State of New York, affirms, under the penalties of perjury, as follows:

1. I am a member of Herrick, Feinstein LLP, the attorneys for plaintiff Viscogliosi Brothers, LLC ("Plaintiff") in connection with the above-captioned matter. I am fully familiar with the facts and circumstances stated herein.

2. I submit this Affirmation in support of Plaintiff's application for an Order pursuant to C.P.L.R. §306-b and § 2004 extending its time to serve the Summons with Notice in this action upon defendants Olympus Corporation and Olympus Biotech Corporation (together, "Defendants").

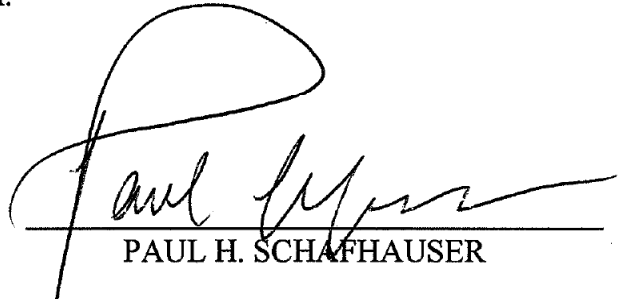
3. Plaintiff filed a Summons with Notice with this Court on October 12, 2012. (A true and copy of the Summons with Notice is annexed hereto as Exhibit A.) Pursuant to C.P.L.R. § 306-b, the Summons with Notice must be served within 120 days of filing, unless extended.

4. On February 8, 2013, the Hon. Jeffrey K. Oing, J.S.C. entered an Order extending the time within which Plaintiff could serve the Summons with Notice through June 11, 2013. (A true and correct copy of the February 8, 2013 Order is annexed hereto as Exhibit B.)

5. Plaintiff respectfully requests an extension of the time to serve the Summons with Notice for an additional period of 120 days (i.e., from June 11, 2013 to October 9, 2013), or such other period as the Court deems reasonable and appropriate. Plaintiff had previously sought an extension because Plaintiff had been exploring a possible resolution of this matter, but those efforts having been unavailing to date, service is required. Plaintiff seeks this extension because Plaintiff requires additional time to effect service on Olympus Corporation, a Japanese company, under the complex international service provisions and regulations of the Hague Convention.

WHEREFORE, Plaintiff respectfully requests that the Court extend the time to serve the Summons with Notice on Defendants for a period of 120 days (i.e., from June 11, 2013 to October 9, 2013), or such other period as the Court deems reasonable and appropriate, to allow service to be effected under the Hague Convention.

Dated: New York, New York
June 6, 2013



PAUL H. SCHAFHAUSER

Exhibit B-9 to Notice of Removal

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

VISCOGLIOSI BROTHERS, LLC,

Plaintiff,

- against -

OLYMPUS CORPORATION, OLYMPUS BIOTECH
CORPORATION and JOHN DOES 1-25,

Defendants.

Index No.

Date Index No. Purchased:

**SUMMONS WITH
NOTICE**

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to appear in this action by serving a notice of appearance on the plaintiff at the address set forth below, and to do so within twenty (20) days after the service of this Summons (not counting the day of service itself), or within thirty (30) days after service is complete if the summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer or appear, a judgment will be entered against you by default for the relief demanded below.

Dated: New York, New York
October 12, 2012

HERRICK, FEINSTEIN LLP

By:

Arthur Jakob, Esq.

Paul H. Schafhauser, Esq.

Attorneys for Plaintiff

Two Park Avenue

New York, New York 10016

(212) 592-1400

To: Olympus Corporation
Shinjuku Monolith
3-1 Nishi-Shinjuku 2-Chome
Shinjuku-ku, Tokyo 163-0914
Japan

Olympus Biotech Corporation
35 South Street
Hopkinton, Massachusetts 01748
USA

NOTICE:

The nature of this action is (1) breach of contract; (2) breach of the implied covenant of good faith and fair dealing; (3) fraudulent inducement; (4) fraud, misrepresentation, and fraudulent omission; (5) unlawful conspiracy to defraud; (6) negligent misrepresentation; (7) tortious interference; (8) promissory estoppel and detrimental reliance; (9) unjust enrichment; (10) specific performance; (11) libel, slander, and/or defamation *per se*; (12) libel, slander, and/or defamation; (13) preliminary and permanent injunctive relief; (14) Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961, et seq.; and (15) fees, costs, and expenses.

The relief sought includes compensatory, punitive, and treble damages, specific performance and enforcement of defendants' commitments and agreements to plaintiff, injunctive relief, pre- and post-judgment interest, attorneys' fees, costs of suit, and such other and further relief as this Court may deem just and equitable.

Should defendants fail to appear herein, judgment in plaintiff's favor will be entered by default for compensatory, punitive and treble damages, presently anticipated to total the sum of \$100,000,000.00, with interest from the date of this action and the costs of this action.

VENUE:

Plaintiff designates New York County as the place of trial in this matter. The basis of this designation is plaintiff's residence in New York County.

Exhibit B-10 to Notice of Removal

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: JEFFREY K. OING
J.S.C. Justice

PART 48

Index Number : 653587/2012
VISCOGLIOSI BROTHERS, LLC
VS.
OLYMUS CORPORATION
SEQUENCE NUMBER : 001
EXTEND TIME _____

INDEX NO. _____
MOTION DATE _____
MOTION SEQ. NO. _____

The following papers, numbered 1 to _____, were read on this motion to/for _____
Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____ No(s). _____
Answering Affidavits — Exhibits _____ No(s). _____
Replying Affidavits _____ No(s). _____

Upon the foregoing papers, it is ordered that this motion is

Order signed herewith.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 2/8/13

JEFFREY K. OING, J.S.C.
J.S.C.

1. CHECK ONE: ☐ CASE DISPOSED ☒ NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: ☐ GRANTED ☐ DENIED ☐ GRANTED IN PART ☒ OTHER
3. CHECK IF APPROPRIATE: ☐ SETTLE ORDER ☐ SUBMIT ORDER
☐ DO NOT POST ☐ FIDUCIARY APPOINTMENT ☐ REFERENCE

At IAS Part 48 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 60 Centre Street, New York, New York, on the 24 day of February, 2013.

JEFFREY K. OING
J.S.C.

PRESENT: _____
Justice

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

VISCOGLIOSI BROTHERS, LLC,

Plaintiff,

- against -

OLYMPUS CORPORATION, OLYMPUS BIOTECH
CORPORATION and JOHN DOES 1-25,

Defendants.

Index No. 653587/2012

ORDER

MOTION SEQUENCE # 001

Plaintiff Viscogliosi Brothers, LLC ("Plaintiff"), having duly made an application to this Court for an Order pursuant to C.P.L.R. § 306-b and § 2004 for an extension of time to serve defendants Olympus Corporation and Olympus Biotech Corporation (together, "Defendants") with the Summons with Notice in the above-captioned action, and Plaintiff's application having been duly submitted to the ^{Court} ~~Ex Parte Clerk~~, and

Upon the reading and filing of the Affirmation of Paul H. Schafhauser, attorney for Plaintiff, dated February 6, 2013, and the exhibits annexed thereto, showing good cause for an extension of time pursuant to C.P.L.R. § 306-b and § 2004 to serve Defendants with the Summons with Notice in the above-captioned action, and after due deliberation having been had thereon;

NOW, on the application of Herrick, Feinstein LLP, attorneys for Plaintiff, it is hereby
ORDERED, that Plaintiff's time to serve the Summons with Notice on Defendants shall
be and hereby is extended 120 days from February 11, 2013 to June 11, 2013.

ENTER:



J.S.C.

JEFFREY K. OING
J.S.C.

Exhibit B-11 to Notice of Removal

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- x
VISCOGLIOSI BROTHERS, LLC,

Plaintiff,

- against -

OLYMPUS CORPORATION, OLYMPUS
BIOTECH CORPORATION and JOHN DOES 1-25,

Defendants
----- X

Index No. 653587/2012

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JENNIFER PORDES, being duly sworn, deposes and says:

1. I am over 18 years of age, am employed by Herrick, Feinstein LLP, and am not a party to this action.

2. On Friday, June 7, 2013, I served a true and correct copy of a Summons with Notice, dated 10/12/12, and a Notice of Commencement of Action Subject to Mandatory Electronic Filing, dated 6/6/13, in the above captioned matter by hand upon:

Olympus Biotech Corporation
c/o CT Corporation
111 Eighth Avenue, 13th Floor
New York, NY 10011

by delivering and leaving same with an individual, who did not give me her name, at:

CT Corporation
111 Eighth Avenue, 13th Floor
New York, NY 10011


the registered agent for Olympus Biotech Corporation.

3. The individual stated that she is authorized to accept service on behalf of Olympus Biotech Corporation at the above address.

4. She can be described as a female, brown skin, brown hair, approximately 40 years of age, 5'4", and 125 lbs.

Sworn to before me this
7th day of June 2013


Notary Public


JENNIFER PORDES

LAINI G. JOHN
Notary Public, State of New York
No. 01JO6170630
Qualified in New York County
Commission Expires July 9, 2015

Exhibit B-12 to Notice of Removal

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: JEFFREY K. OING
J.S.C. Justice

PART 48

Index Number : 653587/2012
VISCOGLIOSI BROTHERS, LLC
vs.
OLYMPUS CORPORATION
SEQUENCE NUMBER : 002
EXTEND TIME

INDEX NO. _____

MOTION DATE _____

MOTION SEQ. NO. _____

The following papers, numbered 1 to _____, were read on this motion to/for _____

Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____ No(s). _____

Answering Affidavits — Exhibits _____ No(s). _____

Replying Affidavits _____ No(s). _____

Upon the foregoing papers, it is ordered that this motion is

Order signed hereafter.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 6/10/13

JEFFREY K. OING J.S.C.
J.S.C.

1. CHECK ONE: _____ ☐ CASE DISPOSED
2. CHECK AS APPROPRIATE: _____ MOTION IS: ☐ GRANTED ☐ DENIED ☐ GRANTED IN PART ☒ OTHER
3. CHECK IF APPROPRIATE: _____ ☐ SETTLE ORDER ☐ SUBMIT ORDER
- ☐ DO NOT POST ☐ FIDUCIARY APPOINTMENT ☐ REFERENCE

At the Ex Parte Motion Support Office of the Supreme Court of the State of New York, New York County, at the Courthouse located at 60 Centre Street, New York, New York, on the 10th day of June, 2013.

MOTION SEQUENCE # 002

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VISCOGLIOSI BROTHERS, LLC,

Plaintiff,

- against -

OLYMPUS CORPORATION, OLYMPUS BIOTECH
CORPORATION and JOHN DOES 1-25,

Defendants.
-----X

: Index No. 653587/2012

ORDER

Plaintiff Viscoglioni Brothers, LLC ("Plaintiff"), having duly made an application to this Court for an Order pursuant to C.P.L.R. § 306-b and § 2004 for an extension of time to serve defendants Olympus Corporation and Olympus Biotech Corporation (together, "Defendants") with the Summons with Notice in the above-captioned action, and Plaintiff's application having been duly submitted to the Court, and

Upon the reading and filing of the Affirmation of Paul H. Schafhauser, attorney for Plaintiff, dated June 6, 2013, and the exhibits annexed thereto, showing good cause for an extension of time pursuant to C.P.L.R. § 306-b and § 2004 to serve Defendants with the Summons with Notice in the above-captioned action, and after due deliberation having been had thereon;

NOW, on the application of Herrick, Feinstein LLP, attorneys for Plaintiff, it is hereby

ORDERED, that Plaintiff's time to serve the Summons with Notice on Defendants shall be and hereby is extended for a period of 120 days (i.e., from June 11, 2013 to October 9, 2013).

ENTER:



J.S.C.

JEFFREY K. OING
J.S.C.

Order No. 653587/12
mtn seq. no. 002

Exhibit B-13 to Notice of Removal

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X		
VISCOGLIOSI BROTHERS, LLC,	:	Index No. 653587/2012
	:	
Plaintiff,	:	
	:	STIPULATION TO EXTEND
-against-	:	THE TIME FOR
	:	DEFENDANT OLYMPUS
OLYMPUS CORPORTION, OLYMPUS BIOTECH	:	BIOTECH CORPORATION
CORPORATION and JOHN DOES 1-25,	:	TO FILE NOTICE OF
	:	APPEARANCE
Defendants.	:	
	:	
	:	
	:	
-----X		

WHEREAS, on June 7, 2013, Plaintiff Viscogliosi Brothers ("Plaintiff") served a summons with notice on Olympus Biotech Corporation ("Olympus Biotech") through Olympus Biotech's registered agent CT Corporation System;

WHEREAS, Plaintiff, through its undersigned counsel, agreed that the deadline for Olympus Biotech to file a notice of appearance in this case can be extended to and include July 17, 2013;

This extension is without prejudice to any defenses or affirmative defenses Olympus Biotech may raise in response to any of Plaintiff's claims, any counterclaims Olympus Biotech may assert against Plaintiff, or any grounds on which Olympus Biotech may move to dismiss the case in response to the complaint, when filed and served by Plaintiff.

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff and Olympus Biotech, that:

1. The time for Olympus Biotech to file a notice of appearance is extended to and including July 17, 2013;

2. This stipulation may be signed in counterparts and delivered by facsimile or email.

Dated: June 26, 2013

Dated: June 26, 2013

HERRICK, FEINSTEIN LLP

MORRISON & FOERSTER LLP

By: 

Arthur Jakob
Paul H. Schafhauser

By: 

Karen L. Hagberg
Hui Liu

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*Counsel for Plaintiff
Viscogliosi Brothers, LLC*

*On Behalf of Defendant Olympus Biotech
Corporation*